UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

LESTER F. KRUPP, JR.,)	
)	
Petitioner,)	
)	
v.)	No. 4:08CV1707 TIA
)	
STATE OF MISSOURI,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Because "it plainly appears from the petition . . . that the petitioner is not entitled to relief," the Court will dismiss the petition. Rule 4 of the Rules Governing § 2254 Cases.

Before federal habeas relief can be granted, a person in state custody is required to exhaust available state remedies. 28 U.S.C. § 2254(b)(1). In this case, petitioner states that his criminal conviction is currently under direct appellate review. As a result, petitioner's available state remedies are not exhausted, and the petition shall be dismissed without prejudice.

Accordingly,

IT IS HEREBY ORDERED that petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **dismissed** without prejudice.

IT IS FURTHER ORDERED that all pending motions are denied as moot.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

Dated this 1st day of December, 2008.

CAROL E. JACKSON

UNITED STATES DISTRICT JUDGE